

**STATE OF LOUISIANA  
DEPARTMENT OF CIVIL SERVICE  
BATON ROUGE, LA.**

December 17, 2007

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**STATE PERSONNEL MANUAL  
TRANSMITTAL SHEET  
NO. 443**

**To: HEADS OF STATE AGENCIES AND PERSONNEL OFFICERS**

**Subject:** Amendment to Civil Service Rule 12.6

**Issue Date:** December 17, 2007

At its meeting on December 12, 2007, the State Civil Service Commission approved the proposed amendments to Rule 12.6, effective December 12, 2007. Please make the following changes in your Civil Service Rules:

REMOVE		INSERT	
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20.65	307	20.65	307
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Sincerely,

s/Anne S. Soileau  
Director

## CHAPTER 12

## ADVERSE ACTIONS, INVESTIGATIONS AND RESIGNATIONS

## 12.1 Appointing Authority.

Every action authorized by this Chapter must be taken by an appointing authority.

## 12.2 Cause; Disciplinary Actions.

- (a) A permanent employee may only be disciplined for cause.
- (b) Disciplinary actions can only include: reassignments; suspensions without pay; reductions in pay; involuntary demotions and dismissals.

## 12.3 Restrictions on Certain Disciplinary Actions.

- (a) No suspension without pay may exceed 90 calendar days except as is provided in Rule 12.5 or as ordered or agreed to under Chapter 13 or Chapter 16.
- (b) No disciplinary reduction in pay may bring an employee's pay below the minimum of his pay range or below minimum wage.

## 12.4 Emergency Suspensions.

An employee may be verbally suspended without pay when his continued presence at work would pose a significant hazard to health, safety or the efficiency of the public service. The employee shall be told that he is being suspended and the reasons therefor and, when feasible, shall be given an opportunity to respond.

## 12.5 Suspensions Pending Criminal Proceedings.

- (a) The Commission shall have the discretion to allow suspensions pending criminal proceedings. The appointing authority shall furnish the Commission a written statement setting forth the reasons for which it believes that such a suspension should be allowed. The suspension may be for such duration and under such conditions as the Commission shall order.

20.66 (Rule 12.5 Suspensions Pending Criminal Proceedings - continued)

- (b) Before allowing a suspension under this Rule, the Commission shall furnish the employee a copy of the appointing authority's written statement and shall provide the employee a reasonable opportunity to respond.

12.6 Non-disciplinary Removals.

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- (a) An employee may be non-disciplinarily removed under the following circumstances:

1. When, on the date the notice required by Rule 12.7 is mailed, hand delivered, or orally given, the employee is unable to perform the essential functions of his job due to illness or medical disability and has fewer than eight hours of sick leave. An employee removed under this provision shall be paid for all remaining sick leave.
2. When, after the employee has been given written notice that his attendance requires improvement and a copy of this rule, an employee has seven or more unscheduled absences during any consecutive twenty-six week period. The employee shall also be given written notice each time he incurs a sixth unscheduled absence during a consecutive twenty-six week period. An unscheduled absence occurs when an employee is absent from work without having obtained approved leave prior to the absence. Approval of leave, after the fact, to cover an unscheduled absence shall not prevent the absence from being considered unscheduled. A continuous absence for the same reason is one unscheduled absence, regardless of its duration.
3. When, as a result of conduct that was not work related, the employee fails to obtain or loses a license, commission, certificate or other accreditation that is legally required for the job.
4. When the employee holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided the opportunity to do so, the employee has refused to resign from one of the positions.
5. When there is cause for dismissal, but the cause is not the employee's fault.

- (b) When an employee is removed under this Rule, the adverse consequences of Rules 6.5(c); 7.5(a)7; 8.96(d); 8.13(a)7; 8.15(d); 8.18(d) and (e); 11.18(b) and 17.25(e)4 shall not apply.

## 12.7 Pre-removal/Pre-discipline Procedure.

No permanent employee may be removed or subjected to any disciplinary action, other than an emergency suspension, until he has been given oral or written notice of the proposed action and the reasons therefor, a description of the evidence supporting the proposed action and a reasonable opportunity to respond thereto.

## 12.8 Written Notice.

- (a) A permanent employee who is removed or subjected to any disciplinary action, other than an emergency suspension or a suspension pending criminal proceedings, shall be given prior written notice which:
  1. states what action is being taken and the effective date and time thereof;
  2. contains such information as will fully inform the employee of the conduct for which the action is being taken and will enable him to prepare a defense, including, where pertinent, the date, time and place of such conduct and the names of persons directly involved in or affected by such conduct (unless their identities are protected by law, in which case, identification shall be made as permitted by law);
  3. contains the following notification: "You have the right to appeal this action to the State Civil Service Commission. The time limits and procedure for appealing are contained in Chapter 13 of the Civil Service Rules;" and
  4. advises the employee where a copy of Chapter 13 of the Civil Service Rules can be found.
- (b) A permanent employee who is subjected to an emergency suspension shall be given written notice within 15 calendar days following the effective date of the emergency suspension. The notice shall contain the information required by paragraph (a) of this Rule.

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- (c) A permanent employee who is subjected to a suspension pending criminal proceedings shall be given written notice within 15 calendar days following the date the Commission allowed such a suspension. The notice shall contain as much of the information required by paragraph (a) of this Rule as is available to the appointing authority.
- (d) Written notice is considered given:
  - 1. upon delivery to the employee or a person of suitable age and discretion who resides with the employee or
  - 2. on the 7th calendar day after it is mailed to the employee, with correct postage, at the most recent address he furnished in writing to his personnel office.

#### 12.9 Letters of Counseling, Warning and/or Reprimand; Responses.

- (a) A letter of counseling, warning and/or reprimand is not a disciplinary action and shall not be included in any personnel record which is accessible to the public. Such a letter is appealable only if the basis for the appeal is discrimination or a violation of these Rules.
- (b) The employee may submit a written response to any letter of counseling, warning and/or reprimand issued to him. The response shall be attached to each copy of the letter of counseling, warning and/or reprimand that is maintained by the employing agency.

#### 12.10 Suspension Pending Investigation.

- (a) An employee may be verbally suspended pending investigation when his appointing authority has reason to believe he has engaged in conduct which, if confirmed, would warrant disciplinary action and the employee's continued presence at work during an investigation of the suspected conduct would be contrary to the best interests of the state service. The employee shall be told that he is being suspended pending investigation and the reasons therefor.
- (b) A suspension pending investigation shall be with pay and shall not exceed 30 calendar days without the prior approval of the Director. Upon an appointing authority's written request which explains the reasons therefor, the Director may allow the suspension to be extended for up to 30 additional calendar days.
- (c) Upon completion of the investigation, the employee and the Director shall be advised of the outcome thereof.